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State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WASTE MANAGEMENT
120 Rt. 156, Yardville, N.J. 08620

DR. MARWAN M. SADAT, P.E.
DIRECTOR

LINO F. PEREIRA
DEPUTY DIRECTOR

MAY 1 1985

Advanced Chemical Technology
c/o Plant Industries, Inc.
411 Hackensack Avenue
Hackensack, NJ 07601

Attention: Mr. Robert Bregman

Re: Notice of Violation and
Penalty Settlement Offer

Dear Mr. Bregman:

Pursuant to the Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6, et seq. and regulations promulgated thereunder, specifically N.J.A.C. 7:1-3.13(c), 7:1-3.13(d) and 7:1-1.3(e), the following findings of fact are made:

FINDINGS

- 1) The State of New Jersey enacted the Environmental Cleanup Responsibility Act (hereinafter "ECRA" or "the Act"), N.J.S.A. 13:1K-6 et seq. (P.L. 1983, c. 330), which was signed into law by Governor Thomas H. Kean on September 2, 1983.
- 2) ECRA requires the New Jersey Department of Environmental Protection (hereinafter "the Department") to adopt rules and regulations to implement the act.
- 3) The Department promulgated Interim ECRA regulations, N.J.A.C. 7:1-3, on December 30, 1983 on an emergency basis pursuant to N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4. On March 6, 1984, the Department readopted the Interim ECRA Regulations, N.J.A.C. 7:1-3 (hereinafter "Regulations") in compliance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., upon acceptance for filing by the Office of Administrative Law pursuant to N.J.A.C. 1:30-4.4(d).
- 4) ECRA and the Regulations establish certain requirements for owners or operators of industrial establishments planning to sell or transfer operations.

- 5) Pursuant to N.J.A.C. 7:1-3.7(c), the owner or operator of an industrial establishment planning to sell or transfer operations MUST (a) notify the Department in writing within five days of the execution of an agreement of sale pursuant to N.J.A.C. 7:1-3.10(a), (b) submit within 60 days prior to the transfer of title a negative declaration to the Department for approval, or within 60 days prior to transfer of title, attach a copy of any cleanup plan to the contract or agreement of sale which may be entered into with respect to the transfer of operations and pursuant to N.J.A.C. 7:1-3.10, (c) obtain, upon approval of the cleanup plan by the Department, a surety bond or other financial security approved by the Department guaranteeing performance of the cleanup plan in an amount equal to the cost estimate for the cleanup plan.
- 6) Advanced Chemical Technology (hereinafter "ACT"), a subsidiary of Plant Industries, Incorporated operated a manufacturing facility at Block 1241, Lot 2, River Road and State Street, Camden City, Camden County, New Jersey.
- 7) By letter dated February 8, 1984, ACT notified the Department that ACT had entered into a contract to sell all assets at the above referenced facility to Russell-Stanley Corporation.
- 8) By letter dated February 15, 1985, ACT submitted a GIS, SES and a negative declaration statement to the Department pursuant to N.J.A.C. 7:1-3.10.
- 9) By letter dated February 16, 1984, ACT submitted a copy of the Asset Purchase Agreement between ACT and Russell-Stanley Corporation regarding the sale of the above referenced facility.
- 10) On February 23, 1984, an inspection of the above referenced facility was conducted by a Departmental representative. During said inspection, the following was noted:
 - a) Oil contaminated soil at the rear of the facility near a dumpster and along the railroad siding on the southern portion of the facility site.
 - b) Absorbent material (speedy dry) contaminated with oil was discarded with the trash in a dumpster.
 - c) A fill area located on the northern boundary of the facility site.
- 11) ACT was instructed by the Departmental inspector to conduct soil sampling and analysis in areas of oil contamination and to provide additional information concerning the fill area on the northern boundary of the facility.
- 12) By letter dated March 6, 1984, ACT submitted to the Department soil sampling and analysis results for eleven (11) samples collected at the ACT facility.

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- 13) Based on Departmental review of the information described in Paragraph 12 above, the Department, by letter dated March 14, 1984, required ACT to:
 - a) Conduct further sampling to determine the extent of lead contamination in the dock and dumpster areas.
 - b) Conduct a cleanup of oil contaminated soil in the dumpster area and perform additional sampling to assure proper cleanup.
 - c) Submit documentation to substantiate that the fill area described in Paragraphs 10c and 11 above is not part of the property leased by ACT.
- 14) By letter dated March 19, 1984, ACT submitted documentation to the Department indicating that the fill area described in Paragraphs 10c and 11 above was not part of the property leased by ACT.
- 15) By letter dated March 21, 1984, ACT responded to the Department's letter of March 14, 1984, by submitting the additional requested soil sampling and analysis results.
- 16) Based on Departmental review of the information described in Paragraph 15 above, the Department, by letter dated March 22, 1984, disapproved ACT's Negative Declaration.
- 17) By letter dated March 27, 1984, ACT submitted a site cleanup plan to the Department.
- 18) By letter dated April 2, 1984, the Department approved ACT's site cleanup plan as referenced in Paragraph 17 above. In said letter, the Department waived the financial assurance requirements as defined at N.J.A.C. 7:1-3.12(c) provided that the final sampling data as described on Page 8 of the plan was completed by April 23, 1984.
- 19) By letter dated May 1, 1984, ACT informed the Department that cleanup of the Camden facility would not begin until the first week in May, 1984.
- 20) ACT conducted cleanup operations at the Camden facility during the period May 5 to May 12, 1984. After the soil removal operation, sampling and analysis for lead and petroleum hydrocarbons was not performed therefore, it was never determined if the soil removal operation was complete.
- 21) ACT, therefore, failed to implement the approved cleanup plan according to the time schedule for implementation of said plan. This is a violation of N.J.A.C. 7:1-3.12(d).

- 22) As ACT failed to complete all aspects of the approved cleanup plan by April 23, 1984, ACT failed to obtain a surety bond or other financial security approved by the Department guaranteeing performance of the cleanup plan in an amount equal to the cost estimate for the cleanup plan. This is a violation of N.J.A.C. 7:1-3.12(c).
- 23) On July 20, 1984, a meeting was held between ACT and the Department to discuss the status of cleanup activities at the Camden facility. As a result of said meeting, it was determined by the Department that site contamination at the facility was more extensive than originally believed and that a new sampling and cleanup plan was required.
- 24) By letter dated August 7, 1984, the Department required ACT to submit a new sampling and cleanup plan.
- 25) By letter dated September 13, 1984, ACT submitted to the Department a new sampling plan for the Camden facility.
- 26) By letter dated October 2, 1984, the Department approved ACT's sampling plan as referenced in Paragraph 25 above.
- 27) By letter dated November 30, 1984, ACT submitted to the Department the analytical results of samples collected pursuant to the approved sampling plan referenced in Paragraph 25 above.
- 28) On January 5, 1985, a meeting was held between ACT and the Department to discuss the status of cleanup activities at the Camden facility.
- 29) Based on Departmental review of the analytical results as referenced in Paragraph 27 above and as a result of the January 5, 1985 meeting, the Department, by letter dated January 23, 1985, required ACT to submit an amended cleanup plan within thirty (30) days of receipt of said letter.
- 30) On January 28, 1985, an inspection of the Camden facility was conducted by a Departmental representative. During said inspection, deficiencies were noted by the Department concerning the implementation of the requirements of the cleanup plan.
- 31) As of the date of this Notice of Violation and Penalty Settlement Offer, the Department has not received an amended cleanup plan from ACT. ACT, therefore, has failed to correct deficiencies noted by the Department concerning the implementation of the requirements of the facility cleanup plan. This is a violation of N.J.A.C. 7:1-3.12(e)1.

Within fifteen (15) calendar days of receipt of this Notice of Violation, you shall submit in writing, to the Bureau of Compliance and Enforcement, Attention: Barry Frasco, at the above address, an affidavit outlining the measures you have taken to attain compliance with the above referenced regulations.

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N.J.S.A. 13:1K-13c provides for maximum civil penalties of \$25,000 per day for violations of this nature. The Department, however, is amenable to compromise and will settle this statutory claim for penalties for the aforementioned violations for the sum of \$23,300.

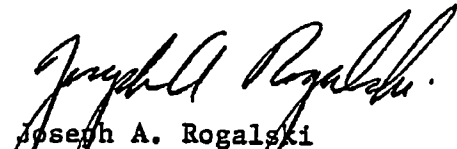
Should you decide to accept this Penalty Settlement Offer, payment must be made within fifteen (15) days of your receipt of this letter. Only checks or money orders drawn to the New Jersey Department of Environmental Protection will be accepted.

Should you decide not to accept this Penalty Settlement Offer or fail to forward payment within fifteen (15) days of receipt of this letter, this offer is rescinded and this matter will be referred to the Office of the Attorney General for the initiation of litigation seeking the full penalties allowed by law.

Should you wish to discuss the specifics of this Notice and Offer, contact Barry Frasco at (609) 292-5561.

Be advised that such discussion will not automatically delay or otherwise extend the deadline for acceptance of this Penalty Settlement Offer.

Very truly yours,


Joseph A. Rogalski
Assistant Director
Field Operations, Compliance
and Enforcement

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